

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 2932 - SB 2862

March 3, 2010

SUMMARY OF BILL: Deletes requirement for sole proprietors and partners engaged in the construction industry to carry workers' compensation coverage on themselves beginning March 28, 2011. Authorizes any sole proprietor, partner, or up to three officers of a limited liability company to be exempt from the requirements of workers' compensation law. Increases from one and one-half to three times the average yearly workers' compensation premium, the penalty for employers engaged in the construction industry who do not cover employees required to be covered under workers' compensation law. Adds that any employer engaged in the construction industry who is ordered to obtain workers' compensation coverage and fails to do so will lose the right to exemption for five years. A second offense will result in the loss of the employer's license.

ESTIMATED FISCAL IMPACT:

Decrease State Revenue –

\$159,100/FY10-11/General Fund

**\$15,900/FY10-11/Tennessee Occupational Safety and Health Act
(TOSHA)**

\$636,400/FY11-12 and Subsequent Years/General Fund

\$63,600/FY11-12 and Subsequent Years/TOSHA

Increase State Expenditures – \$212,400/One-Time/General Fund

\$246,400/Recurring/General Fund

Assumptions:

- The Department of Labor and Workforce Development (DLWD) estimates that there will be 3,000 applications filed annually.
- DLWD will require four additional positions to maintain a program to receive applications and renewals for notices of election to be exempt. One Workers' Compensation Specialist 4, one Workers' Compensation Program Coordinator, one Administrative Services Assistant II, and one Administrative Services Assistant III will be required.
- The increase to recurring state expenditures associated with the new positions is estimated to be \$246,400 per year (\$166,500 salaries; \$56,600 benefits; and \$23,300 other).
- One-time costs associated with the new positions will be \$12,400 (office supplies, computers, and training).

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- A one-time cost of \$200,000 for computer programming for DLWD to maintain a database on the certificate of elections filed.
- A decrease in the number of persons obtaining workers' compensation insurance will decrease the total amount of premiums paid and as a result will decrease the amount of premium taxes collected. The workers' compensation premium tax rate is four percent plus a 0.4 percent surcharge. Premium taxes collected from the surcharge are earmarked to administer the provisions of the Tennessee Occupational Safety and Health Act in accordance with Tenn. Code Ann. § 56-4-206.
- Premium taxes are collected equally each month during the fiscal year.
- According to the Department of Commerce and Insurance, no verifiable data exist on the number of persons affected. The Department estimates a range from 945 to 3,360 non-exempt persons in affected businesses with an estimated payroll ranging from \$30,000 to \$45,000 per partner or sole proprietor in each business. According to the Department, current workers' compensation policy rates range from 10 percent to 20 percent of payroll costs.
- Based on this range, the annual reduction in premium revenue could range between approximately \$125,000 ($945 \times \$30,000 \times 10\% \times 4.4\%$) and \$1,300,000 ($3,360 \times \$45,000 \times 20\% \times 4.4\%$). The approximate mid-point of the range is \$700,000.
- The reduction in revenue from reduced premium taxes in FY10-11 will occur from March 28, 2011 – June 30, 2011.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

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